

IN THE MATTER OF
THE APPLICATION OF ALMA MONATH,
P.R., FOR THE ESTATE OF EDITH
LYLE TIPTON & DR. ALVIN SCHUSTER
ZONING RECLASSIFICATION FROM
D.R. 16 TO B.L.
ON PROPERTY LOCATED ON THE NORTH-
EAST SIDE OF REISTERSTOWN ROAD,
82' SOUTHEAST OF THE CENTERLINE
OF HAMMERSHIRE ROAD
(11623 REISTERSTOWN ROAD)
4TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT

OPINION

This case comes before the Board on a Petition for a zoning reclassification of a parcel containing some .54 acre from D.R. 16 to B.L.

Appearing before the Board in favor of the petition were Alvin Schuster, D.D.S., Contract Purchaser; Mickey Cornelius, an expert in traffic; Jeffrey Long, Planner from the Planning Office; and George Gavrelis, an expert Planner; all being represented by Robert A. Hoffman, Counsel for the Petitioner. Appearing in opposition to the reclassification request was Peter Max Zimmerman representing the People's Counsel for Baltimore County.

Dr. Alvin Schuster testified that he purchased a parcel of property containing some .28 acre from Baltimore County zoned B.L. He then met with the Baltimore County Planning staff as it was his desire to build an office building on this site. It was decided that the site was not large enough to allow an office building to be erected. Petitioner's Exhibit #1 clearly shows the narrow sliver of B.L. property on the corner of Hammershire and Reisterstown Road and the abutting parcel presently zoned D.R. 16.

Case No. R-93-303 Alma Monath, P.R. for the Estate of Edith Lyle Tipton, & Dr. Alvin Schuster 2

Dr. Schuster testified that he wishes to purchase the adjoining parcel containing some .54 acre of D.R. 16 and obtain a reclassification of this parcel to B.L. so that he could erect an office building for his practice with some supplementary offices for other tenants. He further testified that he did not own this property in a timely fashion to allow it to be considered in the 1992 map process. He further testified as to the virtually exclusive use in this area of Reisterstown Road as commercial and that there could not be any reasonable use whatsoever under the D.R. 16 classification and, therefore, the County Council erred in continuing the existing D.R. 16 zoning.

Mickey Cornelius, a Traffic Engineer, did a traffic study of the site and it was his expert opinion that the B.L. classification as proposed would pose no traffic problems. Jeffrey Long, a Planner from the Planning Office, testified that it was his duty to review reclassification requests. He testified that this site was in a commercial area, would be in conformity with the master plan, and that his office would support any documented use of this site in the B.L. classification, but they were reluctant to support the reclassification on an open plat. George Gavrelis, an expert Planner, testified that he prepared all the zoning documents needed, entered a long series of photographs showing the commercial use in this area, entered as Petitioner's Exhibit #4 a color coded zoning map showing the almost exclusive commercial use now existing in this area. It was his opinion that there was no possible residential use for this site and that it just missed being an issue on the comprehensive map process and that it was an error to

Case No. R-93-303 Alma Monath, P.R. for the Estate of Edith Lyle Tipton, & Dr. Alvin Schuster 3

retain the D.R. 16 zoning here and that the B.L. requested zoning would be the proper zoning.

After careful consideration of the testimony presented and the exhibits presented, the Board is persuaded that the D.R. 16 zoning afforded this parcel, it being sandwiched by commercial use, is in fact in error and will so order. The Board will find as a fact from the testimony presented that there is no logical residential use for this site and that commercial use as generated by the B.L. classification would be in complete conformity with all the other uses in this area of Reisterstown Road.

ORDER

IT IS THEREFORE this 20th day of October, 1993 by the County Board of Appeals of Baltimore County ORDERED that the Petition to reclassify the parcel of .54 acre as shown on Petitioner's Exhibit #1 from D.R. 16 to B.L. be and the same is hereby GRANTED.

Any petition for judicial review from this decision must be made in accordance with Rules 7-201 through 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William T. Hackett, Chairman
William T. Hackett, Chairman
Jordan H. Hackett
Jordan H. Hackett
Robert O. Schuetz



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

October 20, 1993

Aaron Margolis, Esquire
405 E. Joppa Road
Suite 100
Towson, MD 21286

RE: Case No. R-93-303
ALMA MONATH, P.R. FOR THE ESTATE OF
EDITH LYLE TIPTON & DR. ALVIN SCHUSTER

Dear Mr. Margolis:

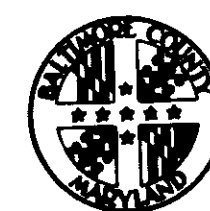
Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,

Charlotte E. Radcliffe
Charlotte E. Radcliffe
Legal Secretary

encl.

cc: Alma Monath, Personal Rep.
Estate of Edith Lyle Tipton
Dr. Alvin Schuster
Mr. James Earl Kraft
People's Counsel for Baltimore County
P. David Field
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of
Zoning Administration



Petition for Reclassification to the Board of Appeals of Baltimore County for the property located at 11623 Reisterstown Road beginning 82 feet more or less south of centerline of HAMMERSHIRE ROAD

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an DR-16 zone to an B.L. zone, for the reasons given in the attached statement; and (2) for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for:

and (3) for the reasons given in the attached statement, a variance from the following sections of the Zoning Regulations of Baltimore County:

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Owner

Dr. Alvin Schuster
Type or Print Name
Alma Monath
Suite 201
11710 Reisterstown Road
Reisterstown, Md. 21136

Dr. Alvin Schuster
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Reisterstown, Md. 21136

Aaron Margolis
Type or Print Name
Aaron Margolis
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Towson, Md. 21286

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STATEMENT IN SUPPORT OF ZONING RECLASSIFICATION REQUEST

PROPERTY KNOWN AS 11623 REISTERSTOWN ROAD

The property which is the subject of this petition is located at the southeast corner of Reisterstown and Hammershire Roads. It is comprised of two component zones; a 0.289 acre area immediately adjacent to Hammershire Road, which is zoned BL. This lot with that zoning classification was purchased from Baltimore County at public auction. The second component part; a 0.542 acre area immediately to the south, is improved with an old, single-family frame dwelling which is in poor condition and is zoned DR-16. This lot is known as 11623 Reisterstown Road. Together with its neighbor to the south, 11623 Reisterstown Road is the only property zoned residential, as defined by the zoning regulations, between Pleasant Hill Road and Franklin Senior High School.

The DR-16 portion of the subject property was not an issue on the 1992 maps and is believed not to have been an owner-generated issue on previous maps. Lack of a specific request caused it and its neighbor to slip through the cracks of the comprehensive zoning process and resulted in retention of the long-established DR-16 zoning.

The owner of the BL portion of the subject property is the contract purchaser of 11623 Reisterstown Road and is now awaiting settlement. He intends to amend this Petition later by documented site plan of both lots to accommodate a mixed-use building containing space for his dental practice and that of other professionals together with space for specialty retail uses.

The 1992 map which last classified 11623 Reisterstown Road as DR-16 is in error. It failed to recognize that the subject property and its neighbor are the only two properties along a 1.8 mile stretch of Reisterstown Road which remain in a residential zoning classification. It affirmed BL zoning on that portion of the property closest to Hammershire Road and left the balance with the adjoining lot in a residential context sandwiched between a veterinary hospital also zoned BL.

The current DR-16 zoning is inappropriate in light of the overwhelming commercial character of the immediate Reisterstown Road frontage. DR-16 zoning does not enable any reasonable and feasible residential use and development in the context of commercial character of Reisterstown Road and is not viable.

Description to Accompany Petition for Reclassification, 0.542 Acre Parcel, Northeast Side of Reisterstown Road, Southeast of Hammershire Road, Fourth Election District, Baltimore County, Maryland



Draft-MCCase-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
410 296 3333
Fax 296 4705

A Team of Land Planners,
Landscape Architects,
Engineers, Surveyors &
Environmental Professionals

Beginning for the same on the northeast right-of-way line of Reisterstown Road, 66 feet wide, and at a point located North 45 degrees 58 minutes 50 seconds East 33 feet, more or less, from a point on the centerline of said Reisterstown Road, said last mentioned point being distant 82 feet, more or less, as measured South 44 degrees 01 minute 10 seconds East along said centerline of Reisterstown Road from its intersection with the centerline of Hammershire Road, 60 feet wide, thence running from the aforementioned point of beginning and binding on the zoning line separating the BL zone from the DR 16 zone as shown on the 1992 Comprehensive Zoning Map of Baltimore County referring all courses of this description to the Grid Meridian established in the Baltimore County Metropolitan District, (1) North 42 degrees 41 minutes 55 seconds East 267.07 feet, thence leaving said line and running the two following courses and distances, viz: (2) South 43 degrees 27 minutes 19 seconds East 97.64 feet, and thence (3) South 46 degrees 32 minutes 41 seconds West 265.68 feet, to the said northeast line of Reisterstown Road, thence binding thereon. (4) North 44 degrees 01 minute 10 seconds West 79.73 feet to the point of beginning; containing 0.542 of an acre of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.



DATE: March 1, 1993
Project No. 93009.A

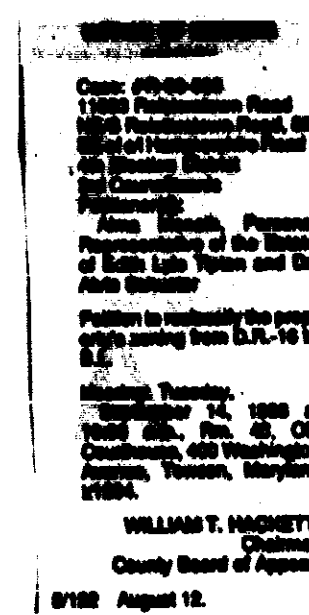
CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: H&B Date of Posting: 7/22/93
Posted for: Reclassification
Petitioner: Alma Monath - P.R. Estate, Edith Lyle Tipton, E.L.T.
Location of property: 11623 Reisterstown Road, NE of Hammershire Rd.
Location of Sign: Along Reisterstown Road on property to be rezoned
Remarks:
Posted by: Matthew Date of return: 7/29/93
Number of Signs: 7

CERTIFICATE OF PUBLICATION

TOWSON, MD., Aug 12, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Aug 12, 1993



THE JEFFERSONIAN,
A. Henrichson
LEGAL AD - TOWSON

receipt
Baltimore County
Zoning Administration & Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Date: 8-1-93
RECLASS PETITION
OWNER: ESTATE OF EDITH LYLE TIPTON
DR. ALVIN SCHUSTER
c/o Aaron Margolis
Suite 100
405 E. JOPPA RD.
TOWSON, MD. 21206
D.R. 16 TO B.L.
03A03R0030MCHRC
BA C002148P003-01-93
\$500.00
Please Make Checks Payable To: Baltimore County
County Board of Appeals
8/1/93 PM 2:53

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE: 7/27/93 ACCOUNT: R001-6150
AMOUNT: \$ 426.50
RECEIVED FROM: [Signature]
FOR: DEC - R-93-303
VALIDATION OR SIGNATURE OF CASHIER
38455

TO: PUPPENT PUBLISHING COMPANY
For: AUGUST 12, 1993 Issue - Jeffersonian
Please forward billing to:
DR. ALVIN SCHUSTER
11710 REISTERSTOWN ROAD #201
REISTERSTOWN MD 21138
410-833-8380
NOTICE OF HEARING
CASE NUMBER: R-93-303
11623 Reisterstown Road
NE/S Reisterstown Road, 82' SE of c/l Hammershire Road
4th Election District - 3rd Councilmanic
Petitioner(s): Alma Monath, Personal Representative of the Estate of Edith Lyle Tipton and Dr. Alvin Schuster
Petition to reclassify the property's zoning from D.R.-16 to B.L.
HEARING: TUESDAY, SEPTEMBER 14, 1993 at 10:00 a.m., Rm. 48, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204.
WILLIAM T. HACKETT, CHAIRMAN
COUNTY BOARD OF APPEALS

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180
APRIL 16, 1993
NOTICE OF HEARING
CASE NUMBER: R-93-303
11623 Reisterstown Road
NE/S Reisterstown Road, 82' SE of c/l Hammershire Road
4th Election District - 3rd Councilmanic
Petitioner(s): Alma Monath, Personal Representative of the Estate of Edith Lyle Tipton and Dr. Alvin Schuster
Petition to reclassify the property's zoning from D.R.-16 to B.L.
HEARING: TUESDAY, SEPTEMBER 14, 1993 at 10:00 a.m.
LOCATION: COUNTY COURTHOUSE, ROOM 48
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
WILLIAM T. HACKETT, CHAIRMAN
COUNTY BOARD OF APPEALS
cc: Alma Monath
Dr. Alvin Schuster
Aaron Margolis, Esq.
Rescheduled To 2:00 pm on 4/14/93

Baltimore County Government
Office of Zoning Administration and Development Management
111 West Chesapeake Avenue
Towson, MD 21204
(410) 887-3353
April 30, 1993
RE: Item No. 333
Case No. R-93-303
Petitioner: Estate of Edith Lyle Tipton, Alma Monath, Personal Representative
Reclassification Petition
Dear Mr. Margolis:
This reclassification petition has been timely filed with the Board of Appeals for a public hearing within the April-October reclassification cycle (Cycle 1). It has been reviewed by the zoning office as to form and content and has also been reviewed by the Zoning Plans Advisory Committee. The review and enclosed comments from the Committee are intended to provide you and the Board of Appeals with an insight as to possible conflicts or problems that could arise from the requested reclassification or uses and improvements that may be specified as part of the request. They are not intended to indicate the appropriateness of the zoning action requested.
If it has been suggested that the petition forms, descriptions, briefs, and/or the site plans be amended so as to reflect better compliance with the zoning regulations and/or commenting agencies' standards and policies, you are requested to review these comments, make your own judgment as to their accuracy and submit the necessary amendments and appropriate fee to this office on or before May 6, 1993. In the event that any requested amendments are not received prior to this date, the petition will be advertised as originally submitted.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
TO: Arnold Jablon, Director DATE: April 21, 1993
Zoning Administration and Development Management
FROM: Robert W. Bowling, Senior Engineer
Development Plan Review
RE: Zoning Advisory Committee Meeting
for Zoning Reclassification Cycle I
April, 1993 - October, 1993
The Development Plan Review Division has reviewed the subject zoning items and we have no comments for Items 1, 2, 4, and 6.
RWB:s
333

SHA Maryland Department of Transportation
State Highway Administration
O. James Lighthizer
Secretary
Hal Kassoff
Administrator
Ms. Helene Kehring
Zoning Administration and Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204
Re: Baltimore County
CASE Item No: R-93-303
HEARING DATE: 4-14-93
Dear Ms. Kehring:
This office has reviewed the referenced case and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.
Please contact Bob Small at 410-333-1350 if you have any questions.
Thank you for the opportunity to review this item.
Very truly yours,
Bob Small
John Contestabile, Chief
Engineering Access Permits
Division
My telephone number is
Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 585-0481 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
TO: Zoning Advisory Committee DATE: April 16, 1993
FROM: Jerry L. Pfeiffer, Captain
Fire Department
SUBJECT: Zoning Reclassifications
R-93-303 No comments
R-93-304 No comments
CR-93-305-SPH Buildings on site shall comply with the applicable provisions of the 1990 Life Safety Code and the Baltimore County Fire Prevention Code. Posted fire lanes shall be provided on site for Fire Department access.
R-93-306 Site and proposed buildings on site shall, at the time of development, shall comply with applicable provisions of the 1990 Life Safety Code and the Baltimore County Fire Prevention Code.
R-93-307 The zoning variance is approved. There may be the need at the time of concept and development plan submittal to locate some buildings to provide better fire access.
R-93-308A Posted fire lanes shall be provided on site for Fire Department access. 35' turning radius shall be maintained on site for fire equipment maneuverability.
R-93-309 No comments
JLP/dal
cc: File
RECEIVED
APR 20 1993
ZADM

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180
Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue
September 1, 1993
NOTICE OF REASSIGNMENT /Change in Time Only
NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.
CASE NO. R-93-303 ALMA MONATH, P.R., FOR THE ESTATE OF EDITH LYLE TIPTON, & DR. ALVIN SCHUSTER
NE/S Reisterstown Road, 82' SE of centerline Hammershire Road (11623 Reisterstown Road)
4th Election District
3rd Councilmanic District
Reclassification: From D.R. 16 TO B.L.
3/01/93 -Petition for Reclassification filed.
which was scheduled to be heard starting at 10:00 a.m. on September 14, 1993 has been REASSIGNED TO A LATER TIME THAT DATE; and has been
REASSIGNED FOR: TUESDAY, SEPTEMBER 14, 1993 at 2:00 p.m.
cc: Aaron Margolis, Esquire Counsel for Petitioner
Alma Monath, Personal Rep., Estate of Edith Lyle Tipton Petitioner
Dr. Alvin Schuster
James Earl Kraft
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy H. Kotroco
W. Carl Richards, Jr.
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM
Kathleen C. Weidenhammer
Administrative Assistant

